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16

17 **UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

18 1. Daniel Gordon
19 2. Steven P. Arnold
20 3. Randy D. Brown
4. Greg A. Dahlmeier
21 5. Michael D. Jackson
22 6. Russell Koshimizu
7. Brian Nicholson
23 8. Kevin Paulson
24 9. John A. Quiroz
10. Glenn D. Smith

25 Plaintiffs,

26 vs.

27 COUNTY OF LOS ANGELES,
28

CASE NO.

**COMPLAINT FOR
DECLARATORY JUDGMENT,
COMPENSATION AND OTHER
RELIEF**

1 Defendant.

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4 **Preliminary Statement**

5 1. The plaintiffs are current or former employees of the defendant County
6 of Los Angeles, California, and they bring this action on behalf of themselves and
7 other employees similarly situated. This is an action for a declaratory judgment
8 under 28 U.S.C. §§ 2201 and 2202 and for compensation and other relief under the
9 Fair Labor Standards Act, as amended, 29 U.S.C. § 201, *et seq.*

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11 **Jurisdiction and Venue**

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13 2. Jurisdiction of this action is conferred upon this Court by 29 U.S.C. §
14 216(b), 28 U.S.C. § 1331, and 28 U.S.C. § 1337.

15 3. Venue of this action is established in this Court pursuant to 28 U.S.C. §
16 1391(b).

17
18 **Parties**

19 4. Plaintiffs are each employees, or former employees, of the defendant
20 County of Los Angeles, at the Los Angeles County Fire Department, located in the
21 Central District of California.

22
23 5. Pursuant to 29 U.S.C. §§ 216(b) and 256, the named plaintiffs herein
24 have each executed and hereby filed with the Court their respective consents in
25 writing to become a party plaintiff in this action, which are appended hereto as
26 Exhibit A. Should other individuals similarly situated seek to join this action, their
27
28

1 consents will be filed with the Court. These written consent forms set forth each
2 plaintiff's name and intent to be party to this suit.

3
4 6. The defendant in this action is the County of Los Angeles, California,
5 which has a principal place of business within the County of Los Angeles in the
6 Central District of California.

7
8 **Facts**

9 7. The plaintiffs are each employees, or former employees, who were at
10 all times material herein employed in an enterprise engaged in commerce or in the
11 production of goods for commerce, as defined by 29 U.S.C. § 203(s). More
12 specifically, each plaintiff is, or was, employed by the County of Los Angeles at the
13 Los Angeles County Fire Department as an arson/fire investigator.

14
15 8. As arson/fire investigators, plaintiffs are dispatched to the scenes of
16 fires, and after the fire is suppressed and the scene is secure and safe, they perform
17 investigations to determine the cause or source of the fire and investigate suspected
18 arson.

19
20 9. In performing their duties, plaintiffs are empowered with the power to
21 issue citations and make arrests relating to their job duties as arson/fire
22 investigators.

23
24 10. Plaintiffs have received training in firearm use and proficiency, and
25 carry a Department-issued firearm when on duty.
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1 11. Each of the plaintiffs in this action, while employed by defendant, has
2 been an “employee” within the meaning of the Fair Labor Standards Act (“FLSA”),
3
4 29 U.S.C. § 203(e)(1).

5 12. The defendant County of Los Angeles is an “employer” as defined by
6 29 U.S.C. § 203(d) and a “public agency” within 29 U.S.C. § 203(x). Upon
7
8 information and belief, the defendant at all relevant times has been aware of the
9 provisions of the FLSA.

10 13. The defendant is an enterprise, as defined by 29 U.S.C. § 203(r).

11
12 14. Within the last three years, while working as arson/fire investigators,
13 plaintiffs were assigned to work 24-hour shifts, also known as platoon duty.

14 15. Plaintiffs work a schedule in which they are on duty for 24 hours, off
15 duty for 24 hours, on duty for 24 hours, off duty for 48 hours, on duty for 24 hours,
16
17 off duty for 24 hours, on duty for 24 hours, and off duty for 96 hours. This cycle
18 then repeats. This schedule routinely causes plaintiffs to work over 43 hours in a
19
20 workweek, and over 147 hours in a 24-day work period.

21 16. Defendant applies a 24-day work period under section 207(k) of the
22 FLSA to plaintiffs when calculating their FLSA overtime pay. 29 U.S.C. § 207(k).
23

24 17. At all times material herein, defendant has failed and refused to provide
25 plaintiffs with overtime compensation for time worked above 147 hours in a 24-day
26
27 work period, thereby violating 29 U.S.C. § 207(k) of the FLSA.
28

1 18. At all times material herein, plaintiffs have worked in excess of 147
2 hours in a 24-day work period.

3 19. At all times material herein, upon information and belief, defendant has
4 provided plaintiffs with overtime compensation for time worked above 182 hours in
5 a 24-day work period.
6

7 20. At all times material herein, in their duties as arson/fire investigators,
8 plaintiffs did not have the responsibility to engage in fire suppression.
9

10 21. On information and belief, the failure by defendant to properly pay
11 compensation owed to each plaintiff is a knowing, willful, unreasonable, reckless,
12 and bad faith violation of 29 U.S.C. § 207 within the meaning of 29 U.S.C. § 255(a).
13

14 **Failure to Pay Overtime for All Hours Plaintiffs**
15 **Work Above 147 Hours in a 24-Day Work Period**
16 **in Violation of Section 207(k) of the FLSA, 29 U.S.C. § 207(k)**

17 22. Plaintiffs hereby incorporate by reference paragraphs one (1) through
18 twenty-one (21) in their entirety and restate them herein.
19

20 23. Employees covered under the FLSA are entitled to overtime
21 compensation at the rate of one and one-half times their regular rate of pay for all
22 hours worked in excess of the maximum hours set forth in 29 U.S.C. § 207 and 29
23 C.F.R. Part 553.230.
24

25 24. At all times material herein, plaintiffs have worked hours in excess of
26 the hourly levels specified in the FLSA, 29 U.S.C. § 207(k) and 29 C.F.R. Part
27 553.230, for employees engaged in law enforcement activities. As a result, at all
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1 times material herein, the plaintiffs were entitled to overtime compensation at a rate
2 of not less than one and one-half times their regular rate of pay for the hours they
3 have worked in excess of 147 hours in a 24-day work period. 29 U.S.C. § 207(k), 29
4 C.F.R. Part 553.230.

6 25. At all times material herein, the defendant has failed and refused to
7 provide plaintiffs with overtime compensation at a rate of one and one-half times
8 their regular rate of pay for all the hours they have worked in excess of 147 hours in
9 a 24-day work period, thereby violating 29 U.S.C. § 207(k).

11 26. Specifically, in violation of 29 U.S.C. § 207(k), the defendant has paid
12 the plaintiffs based on its erroneous classification of plaintiffs as employees engaged
13 “in fire protection activities” under 29 U.S.C. § 207(k), § 203(y), and 29 C.F.R. Part
14 553.

16 27. Defendant’s refusal to provide overtime pay at the proper rate to
17 plaintiffs for the hours they have worked in excess of 147 hours in a 24-day work
18 period, as specified in the FLSA, 29 U.S.C. § 207(k), wrongly deprives them of the
19 overtime compensation that has been due to them at times material herein.

21 28. As a result of the aforesaid willful violations of the FLSA, overtime
22 compensation has been unlawfully withheld by defendant from plaintiffs for which
23 defendant is liable pursuant to 29 U.S.C. §§ 216(b) and 255, together with an
24 additional equal amount as liquidated damages, interest, reasonable attorneys’ fees,
25 and the costs of this action.

1 29. As a result of defendant's willful and purposeful violations of the
2 FLSA, there have become due and owing to the plaintiffs an amount that has not yet
3 been precisely determined. The employment and work records for the plaintiffs are
4 in the exclusive possession, custody and control of the defendant and the plaintiffs
5 are unable to state at this time the exact amount owing to them. Defendant is under
6 a duty imposed by the FLSA, 29 U.S.C. § 211(c), and the regulations of the United
7 States Department of Labor, to maintain and preserve payroll and other employment
8 records with respect to the plaintiffs and other employees similarly situated from
9 which the amount of defendant's liability can be ascertained.

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13 **Prayer for Relief**

14 WHEREFORE, each plaintiff requests from the Court the following relief:

15 A. A declaratory judgment declaring that the defendant has willfully,
16 recklessly, unreasonably, wrongfully, and with a lack of good faith, violated its
17 statutory and legal obligations, and deprived each plaintiff of his/her rights,
18 protections and entitlements under federal law, as alleged herein;

19 B. An order for a complete and accurate accounting of all the
20 compensation to which each plaintiff is entitled;

21 C. Judgment against the defendant awarding each plaintiff monetary
22 damages in the form of back pay compensation, liquidated damages equal to his/her
23 unpaid compensation, plus pre-judgment and post-judgment interest;
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1 D. Reasonable attorneys' fees and the costs and disbursement of this
2 action; and

3
4 E. Such other and further relief as the Court deems proper.

5 **Demand for a Jury Trial**

6 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, plaintiffs hereby
7 respectfully request a trial by jury on all claims presented in this Complaint.
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2 April 18, 2017
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Respectfully submitted,

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